



Billing Code: 3510-13

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Chapter II, Parts 272 and 273

National Technical Information Service

15 CFR Chapter XI, Parts 1150, 1160, and 1170

National Institute of Standards and Technology

37 CFR Chapter IV, Parts 401 and 404

Under Secretary For Technology

37 CFR Chapter V, Part 501

Docket No: [080723893-2238-01]

RIN: 0693-AB60

Redelegations of Authority Resulting from the America COMPETES Act

AGENCY: National Institute of Standards and Technology, National Technical Information Service, and Under Secretary for Technology, United States Department of Commerce.

ACTION: Final rule.

SUMMARY: The Under Secretary of Commerce for Standards and Technology, U.S. Department of Commerce, issues a final rule that amends regulations to reflect the abolishment of the Technology Administration and the resulting redelegations of authority.

DATES: This rule is effective on [PLEASE INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.] The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of [PLEASE INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Henry Wixon, Chief Counsel for NIST, National Institute of Standards and Technology, Mail Stop 1052, Gaithersburg, MD 20899-1052, telephone: (301) 975-2803.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 2007, the President signed into law the America COMPETES Act (Pub. L. 110-69)(“COMPETES Act”). In part, the COMPETES Act amended the Stevenson-Wydler

Technology Innovation Act of 1980 (15 U.S.C. 3704) by abolishing the Technology Administration and repealing certain authorities of the Under Secretary for Technology. The Secretary of Commerce has redelegated the remaining authorities of the Under Secretary for Technology through a memorandum issued on November 14, 2007. This rule revises the pertinent regulations to reflect the changes in authorities as well as updates addresses and standards referenced in the regulations.

Additional Information:

Executive Order 12866

This rule has been determined not to be significant under section 3(f) of Executive Order 12866.

Executive Order 12612

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Administrative Procedure Act

Prior notice and an opportunity for public comment are not required for this rule of agency organization, procedure, or practice. 5 U.S.C. 553(b)(A).

Regulatory Flexibility Act

Because notice and comment are not required under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable.

As such, a regulatory flexibility analysis is not required, and none has been prepared.

#### Paperwork Reduction Act

Notwithstanding any other provision of the law, no person is required to, nor shall any person be subject to penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

There are no collections of information involved in this rulemaking.

#### National Environmental Policy Act

This rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

#### List of Subjects

##### 15 CFR Part 272

Arms and munitions, Incorporation by reference, Labeling, Toys, Transportation.

##### 15 CFR Part 273

Metric system.

##### 15 CFR Part 1150

Arms and munitions, Incorporation by reference, Labeling, Toys, Transportation.

15 CFR Part 1160

Business and industry, Research, Science and technology.

15 CFR Part 1170

Metric system.

37 CFR Part 401

Administrative practice and procedure, Government contracts, Grant programs, Inventions and patents, Nonprofit organizations, Small businesses.

37 CFR Part 404

Inventions and patents, Reporting and recordkeeping requirements.

37 CFR Part 501

Administrative practice and procedure, Government employees, Inventions and patents.

Dated: November 2, 2012

Patrick Gallagher  
Under Secretary of Commerce for Standards and Technology



For the reasons set forth in the preamble, under the authority of the America COMPETES Act, Pub. L. 110-69; the National Institute of Standards and Technology Reauthorization Act of 2010, Pub. L. 111-358; and 15 U.S.C. 277, 15 CFR chapters II and XI and 37 CFR chapters IV and V are amended as follows:

TITLE 15--Commerce and Foreign Trade

CHAPTER II--NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY,  
DEPARTMENT OF COMMERCE

1a. The heading of Subchapter H of Chapter II is added to read as follows:

Subchapter H - MARKING OF TOY, LOOK-ALIKE AND IMITATION FIREARMS

1b. The heading of Subchapter I of Chapter II is added to read as follows:

Subchapter I – METRIC CONVERSION POLICY FOR FEDERAL AGENCIES

1c. The heading of Chapter XI is revised to read as follows:

CHAPTER XI – NATIONAL TECHNICAL INFORMATION SERVICE, DEPARTMENT OF  
COMMERCE

## **PART 1150 – MARKING OF TOY, LOOK-ALIKE AND IMITATION FIREARMS**

1d. The authority citation for Title 15, part 1150 continues to read as follows:

AUTHORITY: Section 4 of the Federal Energy Management Improvement Act of 1988, 15 U.S.C. 5001.

2. Redesignate Title 15, part 1150 as title 15, part 272 and transfer to Chapter II, Subchapter H.

3. Newly redesignated § 272.1 is amended by revising paragraph (b) to read as follows:

§ 272.1 Applicability.

\* \* \* \* \*

(b) Traditional B-B, paint-ball, or pellet-firing air guns that expel a projectile through the force of compressed air, compressed gas or mechanical spring action, or any combination thereof, as described in American Society for Testing and Materials standard F 589-85, Standard Consumer Safety Specification for Non-Powder Guns, June 28, 1985. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the IHS Inc., 15 Inverness Way East, Englewood, CO 80112, [www.global.ihs.com](http://www.global.ihs.com), Phone: 800.854.7179 or 303.397.7956, Fax: 303.397.2740, E-mail: [global@ihs.com](mailto:global@ihs.com). A copy is available for inspection in the Office of the Chief Counsel for NIST, National Institute of Standards and Technology, Telephone: (301) 975-



2803, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

\* \* \* \* \*

4. Newly redesignated §272.2 is revised to read as follows:

§272.2 Prohibitions.

No person shall manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearm (“device”) covered by this part as set forth in §272.1 unless such device contains, or has affixed to it, one of the markings set forth in §272.3, or unless this prohibition has been waived by §272.4.

5. Newly redesignated §272.3 is amended by revising paragraphs (a) and (b) and adding paragraph (c) to read as follows:

§272.3 Approved markings.

\* \* \* \* \*

(a) A blaze orange (Fed-Std-595B 12199) or orange color brighter than that specified by the federal standard color number, solid plug permanently affixed to the muzzle end of the barrel as an integral part of the entire device and recessed no more than 6 millimeters from the muzzle end of the barrel.

(b) A blaze orange (Fed-Std-595B 12199) or orange color brighter than that specified by the Federal Standard color number, marking permanently affixed to the exterior surface of the

barrel, covering the circumference of the barrel from the muzzle end for a depth of at least 6 millimeters. \* \* \* \* \*

(e) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of Federal Standard 595B, December 1989, color number 12199 (Fed-Std-595B 12199), may be obtained from the General Services Administration at General Services Administration, Federal Acquisition Service, FAS Office of General Supplies and Services, Engineering and Cataloging Division (QSDEC) Arlington, VA 22202 or at the General Services Administration website at:

<http://apps.fas.gsa.gov/pub/fedspecs/>. A copy may be inspected in the Office of the Chief Counsel for NIST, National Institute of Standards and Technology, Telephone: (301) 975-2803 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

6. Newly redesignated §272.4 is revised to read as follows:

§272.4 Waiver.

The prohibitions set forth in §272.2 may be waived for any toy, look-alike or imitation firearm that will be used only in the theatrical, movie or television industry. A request for such a waiver should be made, in writing, to the Chief Counsel for NIST, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1052, Gaithersburg, Maryland 20899-1052. The request must include a sworn affidavit which states that the toy, look-alike, or imitation firearm will be used only in the theatrical, movie or television industry. A sample of

the item must be included with the request.

#### **PART 1160 – [REMOVED]**

7. Remove Title 15, part 1160.

#### **PART 1170 – METRIC CONVERSION POLICY FOR FEDERAL AGENCIES**

8. The authority citation for Title 15, part 1170 is revised to read as follows:

AUTHORITY: 15 U.S.C. 1512 and 3710, 15 U.S.C. 205a, DOO 30-2A.

9. Redesignate Title 15, part 1170 as Title 15, part 273 and transfer to Chapter II, Subchapter I.

10. Newly redesignated §273.3 is amended by revising paragraph (a) to read as follows:  
§273.3 General policy.

\* \* \* \* \*

(a) The Director of the National Institute of Standards and Technology will assist in coordinating the efforts of Federal agencies in meeting their obligations under the Metric Conversion Act, as amended.

\* \* \* \* \*

TITLE 37--Patents, Trademarks, and Copyrights

11. The heading of Title 37, Chapter IV is revised to read as follows:

CHAPTER IV –NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY,  
DEPARTMENT OF COMMERCE

**PART 401 – RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS  
AND SMALL BUSINESS FIRMS UNDER GOVERNMENT GRANTS, CONTRACTS,  
AND COOPERATIVE AGREEMENTS**

12. The authority citation for Title 37, part 401 is revised to read as follows:

AUTHORITY: 35 U.S.C. 206; DOO 30-2A.

13. Section 401.2 is amended by revising paragraph (j) to read as follows:

§401.2 Definitions.

\* \* \* \* \*

(j) The term Secretary means the Director of the National Institute of Standards and Technology.

\* \* \* \* \*

14. Section 401.17 is revised to read as follows:

§401.17 Submissions and inquiries.

All submissions or inquiries should be directed to the Chief Counsel for NIST, National  
Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1052, Gaithersburg,  
Maryland 20899-1052; telephone: (301) 975-2803; email: [nistcounsel@nist.gov](mailto:nistcounsel@nist.gov).

## **PART 404 – LICENSING OF GOVERNMENT OWNED INVENTIONS**

15. The authority citation for Title 37, part 404 is revised to read as follows:

AUTHORITY: 35 U.S.C. 207-209, DOO 30-2A.

### **CHAPTER V--UNDER SECRETARY FOR TECHNOLOGY, DEPARTMENT OF COMMERCE**

16. Title 37, parts 500-599 are transferred from Title 37, Chapter V, to Title 37, Chapter IV.

17. Title 37, Chapter V is removed and reserved.

## **PART 501 – UNIFORM PATENT POLICY FOR RIGHTS IN INVENTIONS MADE BY GOVERNMENT EMPLOYEES**

18. The authority citation for Title 37, part 501 is revised to read as follows:

AUTHORITY: Sec. 4, E.O. 10096, 3 CFR, 1949-1953 Comp., p. 292, as amended by E.O. 10930, 3 CFR, 1959-1963 Comp., p. 456 and by E.O. 10695, 3 CFR, 1954-1958 Comp., p. 355, DOO 30-2A.

19. Section 501.3 is amended by revising paragraph (a) to read as follows:

§501.3 Definitions.

(a) The term Secretary, as used in this part, means the Director of the National Institute of Standards and Technology.

\* \* \* \* \*

20. Section 501.11 is revised to read as follows:

§501.11 Submissions and inquiries.

All submissions or inquiries should be directed to the Chief Counsel for NIST, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1052, Gaithersburg, MD 20899-1052; telephone: (301) 975-2803; email: [nistcounsel@nist.gov](mailto:nistcounsel@nist.gov).

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